



## MEMORANDUM

DATE: May 6, 2019

TO: Butte County Board of Supervisors

FROM: Paul Gosselin, Director

A handwritten signature in blue ink, appearing to read "Paul Gosselin".

RE: Camp Fire Impacts to the Miocene Canal Update

### Background

The Camp Fire destroyed portions of the Upper Miocene Canal which prevents water delivery for numerous commercial agricultural operations, residential wells, CalFire and critical wetland habitat. On March 29, 2019, the Board of Supervisors received public comment from a group of affected landowners, who staff were already working with to define issues and options. On April 23, 2019, the Board of Supervisors received a report on the status of the impacts from the loss of water in the Miocene Canal and potential remediation options. The Board of Supervisors directed staff to continue working with PG&E, California Water Service (CWS) and stakeholders on possible solutions as presented by staff. The Board also directed staff to draft a letter to the California Public Utilities Commission requesting that they direct PG&E, as a public water utility, to restore water to their customers along the Miocene Canal system.

### California Public Utilities Commission (CPUC)

There are approximately 12 properties that have a contract with PG&E for the delivery of water from the Miocene Canal system. These individual landowners have a formal agreement with PG&E for water, the presumption was that the CPUC could regulate PG&E as a water utility for these individuals. In 1980s, the CPUC investigated water supply complaints from PG&E contract landowners along the Miocene Canal. The CPUC determined that the water provided by PG&E is an accommodation from their hydroelectric operations rather than a water supply. Under this interpretation, PG&E's water supply provided through the Miocene Canal is exempt from CPUC regulatory oversight (Decision 86-02-016 February 5, 1986). Therefore, a letter to the CPUC regarding PG&E's responsibility as a water utility is not applicable.

### Miocene Canal Actions

Staff are continuing to discuss with PG&E, CWS, and landowners short and long term solutions presented to the Board of Supervisors. The following is a status of the options.

1. Restoration of the Middle and Lower Miocene Canal Water Supplies
  - a. The Middle and Lower Miocene Canals were not damaged by the Camp Fire. If there was a viable means of diverting water into the Middle Miocene Canal, water supplies for the Middle and Lower Miocene Canal would be restored to a large number of those dependent upon the Miocene Canal. The most viable short term option is to use Del Oro Water Company's (DOWC) outtake at Lime Saddle to divert PG&E water into the Middle Miocene. The DOWC line crosses the Miocene line just before the entrance booth at Lime Saddle. The next steps include:
    - i. Determining the amount and timing of diversion into the Miocene – PG&E is compiling this information.
    - ii. Engineering specifications need to be drafted – It is unclear who would do this and who would pay for it. This will be an item that will have to be negotiated between PG&E and landowners.
    - iii. Operations/Management – DOWC should operate the intertie system since their water supply needs would need to be met first. DOWC may want to be compensated for staff time.
    - iv. DWR Authorization – Butte County will be responsible for gaining approval from the California Department of Water Resources to wheel the PG&E water through Lake Oroville.
    - v. CEQA – A Notice of Exemption may be required.
    - vi. Cost recovery – Capital cost (purchase, installation), reimbursement to DOWC (pumping, operations). Landowners may have to be willing to pay some portion of the system.

The County will continue facilitating discussions between PG&E, California Water Service, DOWC and landowners.

Another option is to put water into Kunkel Reservoir using water from the Paradise Irrigation District (PID) system. The PID service area is within a mile of Kunkel Reservoir. PID is evaluating the viability of having their water reach Kunkel Reservoir using seasonal creeks. PG&E is compiling information to determine the amount and timing of water releases into Kunkel Reservoir. Once the water demand is known, PID could determine which of their water right is most applicable. Depending upon which water right is used, PID may need to gain approval from the State Water Resources Control Board and issue a Notice

of Exemption. This process could take 60 days. PG&E would purchase water from PID.

2. Restoration of Water to the Upper Miocene Canal

Restoration of the Upper Miocene would provide water for all of the beneficial uses. PG&E or a future owner of the Miocene energy generation facilities would be responsible for restoring the Upper Miocene which is estimated to be greater than \$10 million. PG&E has indicated that they do not intend to restore or replace the Upper Miocene. Discussions will continue with PG&E and potentially with the prospective new owner to evaluate whether and how a business deal could be structured to facilitate the implementation of this action. Successful implementation of this action would also require cooperation from CWS and DWR. The County may participate in the discussions but will not be a party to any agreement.

3. Long-term Operations and Maintenance Agreements

Reliance on PG&E or any future owner or CWS of Miocene system to maintain and repair the system is not practicable. Landowners should have some responsibility and control for their water supply. PG&E has indicated a willingness to enter into discussions with landowners, CWS and the new potential owner of the Miocene Canal system regarding the value of the delivered water, including shared responsibility for the cost of the Miocene Canal operations and maintenance. Any long term agreement would be made between landowners, PG&E and CWS. The County will participate in the discussion but would not be a party to any agreement that is reached.

Butte County continue facilitating discussions to assist the parties in addressing the impacts of the loss of the Miocene Canal with a goal that those responsible parties restore water supplies to affected beneficial users and improve the long-term water supply resiliency.